

Chapter 529: General Permits for Certain Wastewater Discharges

SUMMARY: This rule establishes procedures and criteria for issuance of General Permits authorizing the discharge of certain pollutants to Waters of the State. A General Permit is issued by the State to cover a multiple individual discharge sources and locations which all have the same type of discharges and which involve situations having a relatively low risk for significant environmental impact. General Permits may be issued for different specific categories of discharge activities. This rule includes in Section 2 the authority for the General Permit program. Applications for coverage under a general permit and conditions which must be observed by all persons covered by any General Permit as described in Section 3. The content of this rule is in part taken from federal regulations, and most references and terms are in the context of the Code of Federal Regulations. To aid the reader, a citation to the appropriate federal regulation is shown in each section of this rule.

Section 1. References to Federal Regulations. Portions of this rule refer to federal regulations of the United States Environmental Protection Agency (EPA). Unless otherwise specified, the federal regulations referenced are those regulations effective as of July 1, 1998, as they appear in volume 40 of the Code of Federal Regulations (CFR).

Section 2. Issuance of General Permits. [see 40 CFR 122.28]

(a) Coverage. The Department may issue a general permit in accordance with the following:

- (1) Area. The general permit shall be written to cover a category of discharges or facilities described in the permit under paragraph (a)(2)(ii) of this section, except those covered by individual permits, within a geographic area. The area shall correspond to existing geographic or political boundaries, such as:
 - (i) Designated planning areas under sections 208 and 303 of CWA;
 - (ii) Sewer districts or sewer authorities;
 - (iii) City, county, or State political boundaries;
 - (iv) State highway systems;
 - (v) Standard metropolitan statistical areas as defined by the Office of Management and Budget;
 - (vi) Urbanized areas as designated by the Bureau of the Census according to criteria in 30 FR 15202 (May 1, 1974); or
 - (vii) Any other appropriate division or combination of boundaries.
- (2) Sources. The general permit may be written to regulate, within the area described in paragraph (a)(1) of this section, either:
 - (i) Storm water point sources; or
 - (ii) A category of point sources other than storm water point sources, or a category of ``treatment works treating domestic sewage, "if the sources or ``treatment works treating domestic sewage" all:
 - (A) Involve the same or substantially similar types of operations;

- (B) Discharge the same types of wastes;
- (C) Require the same effluent limitations or operating conditions;
- (D) Require the same or similar monitoring; and
- (E) In the opinion of the Department, are more appropriately controlled under a general permit than under individual permits.

(b) Administration.

- (1) In general. General permits may be issued, modified, revoked and reissued, or terminated in accordance with applicable requirements of Chapter 522. Special procedures for issuance are found at 40 CFR 123.44 for States.
- (2) Authorization to discharge, or authorization to engage in sludge use and disposal practices.
 - (i) Except as provided in paragraphs(b)(2)(v) and (b)(2)(vi) of this section, dischargers (or treatment works treating domestic sewage) seeking coverage under a general permit shall submit to the Department a written notice of intent to be covered by the general permit. A discharger (or treatment works treating domestic sewage) who fails to submit a notice of intent in accordance with the terms of the permit is not authorized to discharge, under the terms of the general permit unless the general permit, in accordance with paragraph (b)(2)(v) of this section, contains a provision that a notice of intent is not required or the Department notifies a discharger (or treatment works treating domestic sewage) that it is covered by a general permit in accordance with paragraph (b)(2)(vi) of this section. A complete and timely, notice of intent (NOI), to be covered in accordance with general permit requirements, fulfills the requirements for permit applications for purposes Chapter 521.
 - (ii) The contents of the notice of intent shall be specified in the general permit and shall require the submission of information necessary for adequate program implementation, including at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharges, and the receiving stream(s). General permits for storm water discharges associated with industrial activity from inactive mining, inactive oil and gas operations, or inactive landfills occurring on Federal lands where an operator cannot be identified may contain alternative notice of intent requirements. All notices of intent shall be signed in accordance with Chapter 521.
 - (iii) General permits shall specify the deadlines for submitting notices of intent to be covered and the date(s) when a discharger is authorized to discharge under the permit;
 - (iv) General permits shall specify whether a discharger (or treatment works treating domestic sewage) that has submitted a completed and timely notice of intent to be covered in accordance with the general permit and that is eligible for coverage under the permit, is authorized to discharge, in accordance with the permit either upon receipt of the notice of intent by the Department, after a waiting period specified in the general permit, on a date specified in the general permit, or upon receipt of notification of inclusion by the Department. Coverage may be terminated or revoked in accordance with paragraph (b)(3) of this section.
 - (v) Discharges other than discharges from publicly owned treatment works, combined sewer overflows, primary industrial facilities, and storm water discharges associated with industrial activity, may, at the discretion of the Department, be authorized to discharge under a general permit without submitting a notice of intent where the Department finds that a notice of intent requirement would be inappropriate. In making such a finding, the Department shall consider: the type of discharge; the expected nature of the discharge;

the potential for toxic and conventional pollutants in the discharges; the expected volume of the discharges; other means of identifying discharges covered by the permit; and the estimated number of discharges to be covered by the permit. The Department shall provide in the public notice of the general permit the reasons for not requiring a notice of intent.

- (vi) The Department may notify a discharger (or treatment works treating domestic sewage) that it is covered by a general permit, even if the discharger (or treatment works treating domestic sewage) has not submitted a notice of intent to be covered. A discharger (or treatment works treating domestic sewage) so notified may request an individual permit under paragraph (b)(3)(iii) of this section.

(3) Requiring an individual permit.

- (i) The Department may require any discharger authorized by a general permit to apply for and obtain an individual NPDES permit. Any interested person may petition the Department to take action under this paragraph. Cases where an individual NPDES permit may be required include the following:

- (A) The discharger or "treatment works treating domestic sewage" is not in compliance with the conditions of the general NPDES permit;
- (B) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source or treatment works treating domestic sewage;
- (C) Effluent limitation guidelines are promulgated for point sources covered by the general NPDES permit;
- (D) A Water Quality Management plan containing requirements applicable to such point sources is approved;
- (E) Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary;
- (F) [reserved]; or
- (G) The discharge(s) is a significant contributor of pollutants. In making this determination, the Department may consider the following factors:
 - (1) The location of the discharge with respect to waters of the State;
 - (2) The size of the discharge;
 - (3) The quantity and nature of the pollutants discharged to waters of the State; and
 - (4) Other relevant factors;

- (ii) [reserved]

- (iii) Any owner or operator authorized by a general permit may request to be excluded from the coverage of the general permit by applying for an individual permit. The owner or operator shall submit an application under Chapter 521, with reasons supporting the request, to the Department no later than 90 days after the publication by EPA of the general permit in the Federal Register or the publication by a State in accordance with applicable State law. The request shall be processed under Chapter 522 or applicable State procedures. The request shall be granted by issuing of any individual permit if the reasons cited by the owner or operator are adequate to support the request.

- (iv) When an individual NPDES permit is issued to an owner or operator otherwise subject to a general NPDES permit, the applicability of the general permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit.
- (v) A source excluded from a general permit solely because it already has an individual permit may request that the individual permit be revoked, and that it be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply to the source.

Section 3. Terms and conditions applicable to all General Permits

- (a) **Notice Required.** Prior to discharging under the terms of a General Permit, a person must file with the Department an initial Notice of Intent (NOI) for coverage on a form provided by the Department for the specific discharge category. A copy of the initial NOI form shall be provided to the municipal office of the town or city in which the discharge will occur at the time it is submitted to the Department. A check for the appropriate fee amount must accompany each NOI in order for the application for coverage under the General Permit to be considered to be complete.
- (b) **Effective date of coverage.** The Department must notify an applicant for coverage under a General Permit within 14 days of receipt of each complete NOI as to whether or not coverage for the specific discharge is accepted. If the Department does not notify the applicant within 14 days, the NOI is deemed to be accepted and coverage is granted. In the event coverage is not granted, the Department shall notify the applicant of the reasons for not granting coverage. Discharges not acceptable for General Permit coverage may apply for issuance of an individual discharge permit.
- (c) **Continuing Coverage.** Coverage under an existing General Permit will be continued upon payment of an applicable annual fee, provided there are no changes in the discharge as described in the NOI. If changes occur or are proposed, the person having filed the NOI must notify the Department, as specified in the General Permit. Upon reissuance of a new General Permit, persons wishing to continue coverage must so notify the Department.
- (d) **Transfers of ownership.** In the event that the ownership of a discharge is transferred to a new owner, coverage under a General Permit may be transferred by notifying the Department in writing, provided the new owner proposes no changes in the discharge. If changes in the discharge are proposed, a new NOI must be filed.
- (e) **General Restrictions.** A discharge covered by a General Permit may not:
 - (1) Be to a body of water classified as Class GPA, AA, A or SA;
 - (2) Be to a body of water having a drainage area of less than 10 square miles;
 - (3) Contain any pollutant, including toxic substances, in quantities or concentrations which may cause or contribute to any adverse impact on the receiving water;
 - (4) Be to a receiving water which is not meeting its classification standard for any characteristic which may be affected by the discharge; or
 - (5) Impart color, taste, turbidity, radioactivity, settleable materials, floating substances or other properties that cause the receiving water to be unsuitable for the designated uses ascribed to its classification.

- (f) Sampling and test procedures. Where a General Permit requires sampling and testing of an effluent of other waste stream, all samples and measurements shall be representative of the volume and nature of the activity being monitored. The sampling, preservation, handling and analytical methods used must conform with Standard Methods for the Examination of Water and Waste Water, American Public Health Association, Washington, D.C., latest approved edition or methods referenced in 40 CFR Part 136. However, different but equivalent methods are allowable if they receive prior written approval from the Department.
- (g) Monitoring requirements. In addition to monitoring required by the conditions of specific General Permit, the Department may require additional monitoring of an individual discharge as may be reasonably necessary in order to characterize the nature, volume or other attributes of that discharge or its sources.
- (h) Removed substances. Solids, sludges, filter backwash or other pollutants removed or resulting from the treatment of wastewaters shall be disposed of in a manner approved by the Department.
- (i) Other applicable conditions. The following conditions also apply to discharges pursuant to any General Permit and are incorporated herein as if fully set forth.
 - (1) Chapter 523, Section 2 (applicable to all discharges)
 - (2) Chapter 523, Section 3 (applicable to certain categories of discharges)

AUTHORITY: 38 MRSA § 341-D

EFFECTIVE DATE: This rule will become effective upon the approval of the U.S. Environmental Protection Agency of related parts of the State's application to administer the National Pollutant Discharge Elimination System program of the Federal Clean Water Act, pursuant to 40 CFR part 123.